



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/119,709	07/20/98	MCCLENDON	98.058CIP

LARRY W MCKENZIE
WALKER MCKENZIE & WALKER
STE 434
6363 POPLAR AVE
MEMPHIS TN 38119-4896

PMC2/0519

EXAMINER
CONLEY, F

ART UNIT
3628

PAPER NUMBER

DATE MAILED: 05/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/119,709

Applicant(s)
MCCLENDON

Examiner
Fredrick Conley

Group Art Unit
3628



☒ Responsive to communication(s) filed on Mar 11, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-9 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3, 5, and 7-9 is/are rejected.

☒ Claim(s) 4 and 6 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3628

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,638,562 to Masoncup in view of U.S. Pat. No. 5,557,814 to Cybulski.

In reference to claim 1, Masoncup discloses a fitted sheet and bed skirt with a fixing means connecting the left and right top sides of said skirt to the fitted sheet (col. 4-5 lines 67-68 and 1-7)(fig. 5-6). Masoncup fails to disclose a flat sheet. Cybulski discloses a fitted 24 and flat sheet 26 assembly with a fixing means (60,62) connecting the bottom edge of the foot side of the flat sheet to the foot edge of the fitted sheet. Since the use of an upper covering such as a sheet with a fitted sheet is well known in bedding it would have been obvious to employ the flat sheet and fixing means taught by Cybulski in order to provide an upper covering that is attachable to the fitted sheet.

Art Unit: 3628

3. Claims 2, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,638,562 to Masoncup in view of U.S. Pat. No. 5,557,814 to Cybulski, and in view of U.S. Pat. No. 5,099,531 to Schmier.

In reference to claims, 2, 5, and 7, Masoncup discloses all of the Applicant's claimed limitations as stated above except for a comforter and a comforter attaching means. Schmier discloses a comforter 17 connected to a bedding ensemble through an attaching means 20. It is widely known that comforters are often used in combination with other bed clothing and it would have been obvious to employ the comforter taught by Schmier with the bed clothing of Schuetze in order to align and fix the bed clothing together. It would have been obvious matter of design choice to modify the bed clothing of Schuetze by employing snap fasteners, since applicant has not disclosed that the use of snap fasteners solves any stated problem or is for any particular purpose and it appears that the fasteners of Schuetze, as modified, would perform equally well.

4. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,638,562 to Masoncup in view of U.S. Pat. No. 5,557,814 to Cybulski, and further in view of U.S. Pat. No. 5,438,719 to Anthony.

In reference to claim 3, Masoncup discloses all of the Applicant's claimed limitations except for a pillow case with a fixing means connecting a back side of the pillow case to the top at the head side of the fitted sheet. Anthony discloses a fitted bed sheet having a pillow case sewn along a back side to the top of the fitted sheet. It would have been obvious to sew a pillow case

Art Unit: 3628

to the top sheet of Masoncup in order to prevent the pillow case from wandering from the bedding arrangement.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,638,562 to Masoncup in view of U.S. Pat. No. 5,557,814 to Cybulski, U.S. Pat. No. 5,099,531 to Schmier, and further in view of U.S. Pat. No. 5,438,719 to Anthony.

In reference to claims 8-9, Masoncup discloses all of the Applicant's claimed limitations except for a pillow case with a fixing means connecting a back side of the pillow case to the top at the head side of the fitted sheet. Anthony discloses a fitted bed sheet having a pillow case sewn along a back side to the top of the fitted sheet. It would have been obvious to sew a pillow case to the top sheet of Masoncup in order to prevent the pillow case from wandering from the bedding arrangement.

Allowable Subject Matter

6. Claims 4 and 6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3628

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

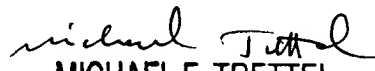
Art Unit: 3628

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick Conley whose telephone number is (703) 308-7468.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry Melius, can be reached on (703) 308-2171. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

F.C.

May 11, 1999


MICHAEL F. TRETTEL
PRIMARY EXAMINER
ART UNIT 358